

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SCOTT BAILEY ANDERSON,

Plaintiff,

V.

JAMES JOLLY, et al.,

## Defendants.

CASE NO. C15-5286BHS

## ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”)

of the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 41), and

Plaintiff Scott Bailey Anderson's ("Anderson") objections to the R&R (Dkt. 42).

On June 1, 2016, Judge Creatura issued the R&R recommending that the Co

grant Defendants' motion for summary judgment. Dkt. 41. On June 10, 2016, Anderson filed objections. Dkt. 42.

The district judge must determine de novo any part of the magistrate judge's

disposition that has been properly objected to. The district judge may accept, reject, or

modify the recommended disposition; receive further evidence; or return the matter to the

magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

1 With regard to the majority of Anderson's objections, Judge Creatura adequately  
 2 addressed Anderson's arguments. For example, inmates do not have a protected liberty  
 3 interest in placement at any specific facility or at any specific custody level. *See* Dkt. 41  
 4 at 9–10. Therefore, the Court adopts the R&R in full on this issue.

5 With regard to Anderson's retaliation claim, Judge Creatura correctly concluded  
 6 that Anderson does have a right not to be retaliated against for engaging in protected  
 7 conduct and that Anderson failed to submit sufficient evidence on the elements of his  
 8 claim. It is undisputed that Anderson received two infractions on July 12, 2014. The  
 9 hearing officer found Anderson guilty of one infraction and dismissed the other.  
 10 Anderson claims retaliation as a result of having the second infraction dismissed. This  
 11 theory is at most implausible and at least unsupported by the record. In fact, Anderson  
 12 fails to recognize that he was a borderline minimum security prisoner and that the  
 13 infraction that was sustained, in addition to Anderson's history of violence and  
 14 infractions, plausibly resulted in the change of status finding. Simply put, Anderson fails  
 15 to show an absence of a legitimate correctional goal for increasing Anderson's offender  
 16 status based on the infraction that was sustained. *Pratt v. Rowland*, 65 F.3d 802, 806 (9th  
 17 Cir. 1995) (“The plaintiff bears the burden of pleading and proving the absence of  
 18 legitimate correctional goals for the conduct of which he complains.”).

19 Therefore, the Court having considered the R&R, Anderson's objections, and the  
 20 remaining record, does hereby find and order as follows:

21 (1) The R&R is **ADOPTED**;

22 (2) Defendants' motion for summary judgment is **GRANTED**;

1 (3) This action is **DISMISSED**; and

2 (4) Anderson's *in forma pauperis* status is **REVOKE**D for purposes of appeal.

3 Dated this 25th day of July, 2016.

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BENJAMIN H. SETTLE  
United States District Judge